AMENDMENT TO THE CLAIMS

Claims 1-4 (cancelled).

5. (Currently Amended) An excavation assembly comprising;

a frame ~~(112)~~ with a first and second end;

a drive component ~~(52)~~ operatively mounted at the first end;

a head shaft ~~(150)~~ disposed along an axis and being operatively mounted at the second end;

a drive sprocket ~~(144)~~ operatively mounted to the drive component ~~(52)~~;

an excavation drum ~~(148)~~ operatively rotatably mounted onto the head shaft ~~(150)~~ and including excavation members ~~(154)~~ operatively mounted in a fixed pattern;

a driven sprocket ~~(146)~~ operatively mounted to the excavation drum ~~(148)~~;

an excavation chain ~~(142)~~ routed around both the drive sprocket ~~(144)~~ and the driven sprocket ~~(146)~~ for transferring power from drive component ~~(52)~~ to excavation drum ~~(148)~~ and including excavation members ~~(154)~~ mounted in a fixed pattern;

wherein the excavation drum ~~(148)~~ is mounted onto the head shaft ~~(150)~~ in a manner that the excavation drum ~~(148)~~ cooperates with the excavation chain ~~(142)~~ and the fixed cutter pattern of the excavation chain ~~(142)~~ to stay in consistent alignment with the fixed cutter pattern of the excavation drum ~~(148)~~.

6. (Currently Amended) The excavating assembly of claim 5 including a first second and third cutters ~~(154)~~ wherein the first cutter is closer to a longitudinal centerline of the frame than the second cutter and the second cutter is closer to a longitudinal centerline of the frame than the third cutter.

7. (Original) The excavating assembly of claim 5 wherein said first second and third cutters are in alignment along a substantially straight line.

8. (Currently Amended) The excavating assembly of claim 5 including fourth, fifth and sixth cutters ~~(154)~~ on the other side of the longitudinal centerline from the first, second and third cutters and wherein the fourth cutter is closer to a longitudinal centerline of the frame than the fifth cutter and the fifth cutter is closer to a longitudinal centerline of the frame than the sixth cutter.

9. (Original) The excavating assembly of claim 8 wherein the fourth, fifth and sixth cutters are in alignment along a substantially straight line.

10. (Currently Amended) The excavating assembly of claim 9 wherein the first and fourth cutters are disposed along a line substantially parallel to the axis of the head shaft ~~(150)~~.

11. (Currently Amended) The excavating assembly of claim 10 wherein the second and fifth cutters are disposed along a line substantially parallel to the axis of the head shaft ~~(150)~~.

12. (Currently Amended) The excavating assembly of claim 11 wherein the third and sixth cutters are disposed along a line substantially parallel to the axis of the head shaft ~~(150)~~.

13. (Currently Amended) The excavating assembly of claim 9 wherein the first and fourth cutters are disposed along a line substantially parallel to the axis of the head shaft ~~(150)~~.

14. (Currently Amended) The excavating assembly of claim 13 wherein the second and fifth cutters are disposed along a line substantially parallel to the axis of the head shaft ~~(150)~~.

15. (Currently Amended) The excavating assembly of claim 14 wherein the third and sixth cutters are disposed along a line substantially parallel to the axis of the head shaft ~~(150)~~.

16. (Original) The excavating assembly of claim 15 wherein the first second and third cutters are in alignment along a substantially straight line.

17. (Original) The excavating assembly of claim 16 wherein an additional set of cutters is disposed along an outer line parallel to an inner line passing through the first second and third cutters.

18. (Original) The excavating assembly of claim 17 wherein a further set of cutters is disposed along a second outer line parallel to a second inner line passing through the fourth, fifth and sixth cutters.

19. (New) An excavating apparatus having a prime mover with a longitudinal centerline and comprising a main frame with an engine, a ground drive system and an excavation boom operatively attached at a pivot axis thereto, said excavation boom comprising:

- a first end and a second end, said first end being operatively pivotally attached to said main frame at the pivot axis, said pivot axis being transverse to the longitudinal centerline of said prime mover, said pivot axis being fixed with respect to the engine;

- a head shaft operatively attached to the second end of said boom along a head shaft axis, said head shaft axis being transverse to the longitudinal centerline of the prime mover; and

- wherein said boom further includes a tilt axis allowing head shaft to pivot along the tilt axis which is fixed substantially perpendicular with respect to said pivot axis.

20. (New) An excavating apparatus having a prime mover with a longitudinal centerline and comprising a main frame with an engine, a ground drive system and an excavation boom operatively attached at a pivot axis thereto, said excavation boom comprising:

- a first end and a second end, said first end being operatively pivotally attached to said main frame at the pivot axis, said pivot axis being transverse to the longitudinal centerline of said prime mover, said pivot axis being fixed with respect to the engine;

- a head shaft operatively attached to the second end of said boom along a head shaft axis, said head shaft axis being transverse to the longitudinal centerline of the prime mover; and

- wherein said head shaft is also operatively pivotally attached to said excavation boom along a tilt axis.

21. (New) The excavating apparatus of claim 20 wherein the tilt axis is fixed substantially perpendicular to said pivot axis.

22. (New) The excavating apparatus of claim 20 wherein the tilt axis is fixed substantially parallel to a line substantially perpendicular to said pivot axis.